

REMARKS

This application is a continuation of the applicant's co-pending patent application Serial No. 10/027,571, filed December 19, 2001, based on a final rejection which was issued in that application. This present amendment and the accompanying declaration are believed to eliminate one of the principle references cited by the Examiner and place this application in condition for allowance or better form for appeal.

In the Office Action dated September 19, 2003 in the applicant's parent patent application, certain of the claims such as, for example, Claims 10 and 17 were rejected under 35 U.S.C. 112. Those claims have been amended to avoid any indefiniteness.

The claims in the application were also rejected based on the newly cited printed publication No. US2003/0010783A1 to Prezelin. At the very outset, the applicant believes that a Prezelin publication is not a proper reference to employ in the instant application inasmuch as the applicant has ample evidence to swear back of the Prezelin publication under 37 C.F.R. 1.131. The applicant is herewith enclosing a declaration which effectively shows a making of the invention more than one year prior to the provisional application Serial No. 60/305,455, filed July 13, 2001 by Prezelin.

The applicant herein has made this invention long prior to the filing date of that provisional application by Prezelin and, in

fact, has made this invention even long prior to more than one year prior to the filing date of the Prezelin provisional application.

The declaration as submitted herewith clearly shows a making of the invention more than one year prior to the filing date of the Prezelin provisional application. Although no dates are shown on the material submitted herewith, the applicant has ample evidence to support this declaration. Indeed, it is to be noted that the applicant has attached photographs literally showing one of the versions of the container which had been made by the applicant. Moreover, the version shown in these photographs was made more than one year prior to the filing date of the Prezelin application. It is therefore believed that Prezelin should be removed as a prior art reference and not used against any of the claims in the instant application.

Inasmuch as the previous prior art reference formerly employed by the Examiner, namely the Poslinski Patent No. 6,364,152 has been effectively overcome, it is believed that there are no prior art references, including Poslinski, whether taken alone or in combination with the other secondary references, which can respond to the claims as submitted herewith. It is therefore believed that Claims 1-28, in the applicant's previous application, are therefore allowable.

The applicant has added new Claims 29-41 which are patterned along the lines of Claim 9 and further define over the prior art of record, including even the Prezelin Patent, even if the latter were

an applicable reference, which it is not. In this respect, it is to be noted that Prezelin discloses a closure member which is somewhat resilient, such as that member 82, and uses a front face 84 to engage the valve opening, as best shown in Figures 9 and 10 of Prezelin. The structure is also shown in Figures 2 and 7 of Prezelin. In each case the closure seal merely fits over the opening.

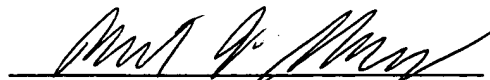
The applicant has also submitted herewith new Claim 29-33 which are based on Claim 9 and more specifically recite the recess on the housing which holds the opening. This Claim 27 also recites that the valve projection means extends into the recess in sealing-wise contact therewith and sealingly engages the opening and covers same. This structure is more fully shown in at least Figure 6 of the drawings and shows the projection extending into that recess and engaging a sealing ring therein. The sealing ring, of course, is not necessary but does provide for a more effective seal. This structure remains completely unanswered by Prezelin and it is therefore believed that Claims 29-33 further patentably distinguish over the prior art of record.

The applicant has also added new Claims 34-41 which are based on Claims 1-8. These new Claims 34-41 cover the same matter as Claims 1-8 but do not include reference to the snap fastening. Notwithstanding, they should also be allowable since the snap fastener has been used on other devices in the past. Allowance of Claims 34-41 is therefore solicited.

In view of the foregoing, reconsideration and allowance is respectfully solicited.

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Respectfully submitted,



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